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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re T.M., a Person Coming Under the  
Juvenile Court Law.

B209070  
(Los Angeles County  
Super. Ct. No. GJ25673)

THE PEOPLE,

Plaintiff and Respondent,

v.

T.M.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County, Catherine J. Pratt and Robert Leventer, Commissioners. Affirmed with directions.

Lynette Gladd Moore, under appointment by the Court of Appeal, for Defendant and Appellant.

Edmund G. Brown, Jr., Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Pamela C. Hamanaka, Senior Assistant Attorney General, Susan D. Martynec, Supervising Deputy Attorney General, and Gary A. Lieberman, Deputy Attorney General, for Plaintiff and Respondent.

T.M. appeals from the order of wardship entered following a finding that she committed misdemeanor battery. She was ordered home on probation and contends that the evidence was insufficient to support the finding of battery and that one of her conditions of probation must be modified. We shall order the requested modification. In all other respects, we affirm.

### **BACKGROUND**

On April 22, 2008, the minor and a female friend were at a clothing store in a shopping mall on Slauson Avenue in Los Angeles. Store employee Seon Kim saw the two girls take three pairs of shorts into a fitting room and later emerge with only two pairs of shorts. Store employee Rosa Aguilar then looked into the fitting room but did not see any shorts. Kim asked the girls about the third pair of shorts, and the minor stated there had only been two. Kim called for security, following which the minor said she had left a pair of shorts in the fitting room and went back to the fitting room. After the minor returned, the third pair of shorts was located in the fitting room.

Once the third pair of shorts had been found, Aguilar and the minor's companion got into a verbal altercation while the two were standing face-to-face. At that point Aguilar and the minor were standing back-to-back. A security guard tried to separate Aguilar and the minor's companion. As the two were being separated, Aguilar stepped backward and "softly" bumped into the minor's back. The minor turned around and pushed Aguilar with the palms of both of her hands, causing Aguilar to take "two or three steps" and "kind of" lose her balance. (From the witness stand, Kim gave a demonstration of how the minor pushed Aguilar.) After being pushed, Aguilar stepped forward, said, "'Don't push me,'" and pushed the minor.

The minor testified on her own behalf, "I thought [Aguilar] pushed me, but, like, it was just a bump. So I had thought she pushed me so I had pushed her back." The minor further testified that Aguilar "was arguing with my friend. So like, probably, she didn't like me because I was, like, with her."

The minor argued self-defense. The court rejected the argument and found that the minor had committed a battery, in pertinent part as follows: "I think that the context

of the situation is relevant. I think that there are certain situations in which getting pushed or shoved from behind would be more common and more understandable, and for that reason it would be less appropriate for the person who had gotten pushed in the back to respond in an aggressive way. [¶] . . . [¶] The context of this situation is that they were in a store, there was an argument and, you know, it was two teenagers with two apparent adults. It appears to be an accidental touching. That was the way it was described by both [the minor] and Mr. Kim. That was the touching of Miss Aguilar to [the minor]. [¶] Based on the response — I mean [the minor] did willfully and knowingly touch Miss Aguilar, and I think that that is enough to commit a battery. . . .

“[T]he slightest touching can be enough to commit a battery if it’s done in a rude or angry way. Based upon both [the minor’s] testimony and Mr. Kim’s observations, and the descriptions of the event, I think it’s possible to infer that she was somewhat angry and rude in doing it. And as [the prosecutor] has noted, it is not a defense if you were responding to what you thought was a provocative act if it wasn’t a threat or attempt to inflict physical injury. [¶] . . . [¶] . . . I don’t know that it was reasonable for [the minor] to think that she was being attacked in that context. So I disagree with [the minor’s argument of self-defense], especially given the fact that according to [the minor’s] description of it, she turned around and she saw the back of Miss Aguilar. I think that would also lend to the fact that she was not reasonable in thinking that she was being attacked.”

## **DISCUSSION**

### **1. Sufficiency of the Evidence**

The minor contends that the evidence was insufficient to support the finding of battery because “the circumstances under which [the bump] occurred would lead a reasonable person to believe that Aguilar’s intent was hostile” and therefore compel a finding of self-defense. We disagree.

“A battery is any willful and unlawful use of force or violence upon the person of another.” (Pen. Code, § 242.) “To justify an act of self-defense . . . , the defendant must have an honest *and reasonable* belief that bodily injury is about to be inflicted on him.

[Citation.]’ [Citation.] The threat of bodily injury must be imminent [citation], and ‘. . . any right of self-defense is limited to the use of such force as is reasonable under the circumstances. [Citation.]’ [Citations.]” (*People v. Minifie* (1996) 13 Cal.4th 1055, 1064–1065.)

“When considering a challenge to the sufficiency of the evidence to support a conviction, we review the entire record in the light most favorable to the judgment to determine whether it contains substantial evidence—that is, evidence that is reasonable, credible, and of solid value—from which a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt. [Citation.] . . . We presume in support of the judgment the existence of every fact the trier of fact reasonably could infer from the evidence. [Citation.] If the circumstances reasonably justify the trier of fact’s findings, reversal of the judgment is not warranted simply because the circumstances might also reasonably be reconciled with a contrary finding. [Citation.] A reviewing court neither reweighs evidence nor reevaluates a witness’s credibility. [Citation.]” (*People v. Lindberg* (2008) 45 Cal.4th 1, 27.)

Here, the evidence established that during a verbal altercation between Aguilar and the minor’s friend, Aguilar, who was standing back-to-back with the minor, bumped into the minor’s back. Following this, the minor turned around and pushed Aguilar, as demonstrated for the court by Kim. Such evidence was sufficient to support a finding that the minor committed battery.

## **2. Conditions of Probation**

One of the conditions of probation imposed on the minor (No. 15) required that she not associate with anyone disapproved of by her parents, probation officer, or placement staff.

The minor contends, and the Attorney General aptly concedes, that under *In re Sheena K.* (2007) 40 Cal.4th 875 at pages 879 and 890, this condition should be modified to include a requirement that the minor know her parents, probation officer, or placement staff disapprove. We shall so order.

## **DISPOSITION**

The order continuing wardship is affirmed. The juvenile court is directed to modify condition of probation No. 15 to provide that the minor not associate with anyone known by her to be disapproved of by her parents, probation officer, or placement staff.

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MALLANO, P. J.

We concur:

ROTHSCHILD, J.

FERNS, J.\*

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\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.